

\*E-Filed 4/22/09\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Case No. 5:03 CR 20010 RMW

Plaintiff,

ORDER DISMISSING  
DISCOVERY MOTION

v.

KEVIN V. DUGAN,

Defendant.

THIS MATTER is before the Court on defendant Kevin V. Dugan's "Court Order for Disclosure Pursuant to Discovery Motion," filed April 16, 2009, which the undersigned construes as a motion pertaining to discovery matters. Since this case is currently on appeal to the United States Court of Appeals for the Ninth Circuit, the district court lacks jurisdiction to proceed with such a motion. *See United States v. Ortega-Lopez*, 988 F.2d 70, 72 (9th Cir. 1993) ("The filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). Defendant's motion is therefore dismissed.

**IT IS SO ORDERED.**

DATED: 4/22/09



RICHARD SEEBORG  
United States Magistrate Judge

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY**  
2 **PROVIDED TO:**

3 **Lupe Martinez** martinez-luna@sbcglobal.net

4 **Joseph A. Fazioli** joseph.fazioli@usdoj.gov

5 **AND A COPY OF THIS ORDER WAS MAILED TO:**

6 **Kevin V. Dugan**

7 #99865-111

8 Federal Prison Camp USP Atwater

9 PO Box 019001

10 Atwater, CA 95301

11 **Dated: 4/22/09**

12 /s/ Chambers Staff

13 Chambers of Magistrate Judge Richard Seeborg